federal register

Wednesday
August 17, 1988

Part X

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Part 52

Federal Acquisition Regulation (FAR); Examination of Records; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 52

Federal Acquisition Regulation (FAR); Examination of Records

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are considering changes to Federal Acquisition Regulation (FAR) clause at 52.215-2, Audit—Negotiation, to illustrate the type and form of contractor cost and financial information which is to be made available to auditors for conducting audits of contract costs.

DATE: Comments should be submitted to the FAR Secretariat at the address shown below on or before October 17, 1988, to be considered in the formulation of a final rule.

ADDRESS: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW., Room 4041, Washington, DC 20405.

Please cite FAR Case 87-38 in all correspondence related to this issue

FOR FURTHER INFORMATION CONTACT: Margaret A. Willis, FAR Secretariat, Room 4041, GS Building, Washington, DC 20405, (202) 523-4755.

SUPPLEMENTARY INFORMATION:

A. Background

Specific illustrations of the type and form that books, records, documents, etc. may take are being proposed for addition to the Audit—Negotiation clause at FAR 52.215-2. This change should help to eliminate time-consuming and inefficient access to records arguments that have occurred between auditors and contractors.

B. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., because most contracts awarded as a result of negotiations are awarded to large businesses. Furthermore, the proposed revisions merely illustrate the nature of records Government auditors have access to and do not change existing requirements. An initial regulatory flexibility analysis has therefore not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected FAR Subpart will also be considered in accordance with Section 610 of the Act. Such comments must be sumitted separately and cite FAR Case 88-610 in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96-511) does not apply because the proposed rule changes no recordkeeping or information collection requirements or collection of information from offerors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, et seq.

List of Subjects in 48 CFR Part 52

Government procurement.

Dated: August 8, 1988.

Harry S. Rosinski,

Acting Director, Office of Federal Acquisition and Regulatory Policy.

Therefore, it is proposed that 48 CFR Part 52 be amended as set forth below:

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1. The authority citation for Part 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2473(c).

2. Section 52.215-2 is amended by removing in the title of the clause the date "(APR 1988)" and adding in its place the date "(JUL 1988)"; and by revising in the clause paragraphs (a) and (b) to read as follows:

52.215-2 Audit—Negotiation.

* * * * *

(a) *Examination of costs.* If this is a cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable contract, or any combination of these, the Contractor shall maintain—and the Contracting Officer or representatives of the Contracting Officer shall have the right to examine and audit—books, records, documents, and other evidence and accounting procedures and practices, regardless of form (e.g., machine readable media such as disk, tape, etc.) or type (e.g., data bases, applications software, data base management software, utilities, etc.), sufficient to reflect properly all costs claimed to have been incurred or anticipated to be incurred in performing this contract. This right of examination shall include inspection at all reasonable times of the Contractor's plants, or parts of them, engaged in performing the contract.

(b) *Cost of pricing data.* If, pursuant to law, the Contractor has been required to submit cost or pricing data in connection with pricing this contract or any modification to this contract, the Contracting Officer or representatives of the Contracting Officer who are employees of the Government shall have the right to examine and audit all books, records, documents, and other data, regardless of form (e.g., machine readable media such as disk, tape, etc.) or type (e.g., data bases, applications software, data base management software, utilities, etc.) of the Contractor (including computations and projections) related to proposing, negotiating, pricing, or performing the contract or modification, in order to evaluate the accuracy, completeness, and currency of the cost or pricing data. The right of examination shall extend to all documents necessary to permit adequate evaluation of the cost or pricing data submitted, along with the computations and projections used.

* * * * *

[FR Doc. 88-18614 Filed 8-16-88; 8:45 am]

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H.R. 5026/Pub. L. 100-393

Dire Emergency Supplemental Appropriations Act, 1988. (Aug. 14, 1988; 102 Stat. 969; 7 pages) Price: $1.00

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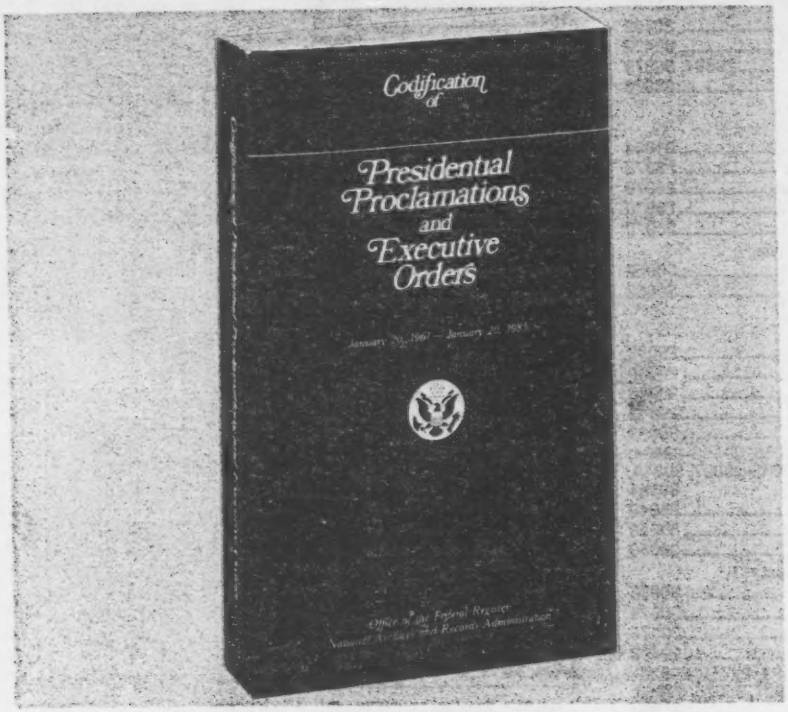

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